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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,830	03/10/2004	Guy Brochu	2634-9A	5681

7590 07/31/2006

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EXAMINER

LAUX, JESSICA L

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/797,830	Applicant(s) BROCHU ET AL.	
	Examiner Jessica Laux	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 recites the limitation "said central section" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said vertical section" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 112

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is lack of antecedent basis in the claims for "said retaining means first member" and "said planar portion". The claim as such is unduly unclear and indefinite as to the structure of the support for a soffit that applicant claims as the invention.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by R.C. Schroter et al (3181275).

Regarding claim 1: Schroter discloses a support structure for a soffit, said support structure comprising: a first member (the member of molding strip 1' that is attached to element 17) having a central vertical section (16), a support element (19) extending outwardly from a lower portion of said central vertical section, a retaining structure (15 and 13) located proximate an upper portion of said central vertical section;

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a second member (the other member of the molding strip 1"; element 20) having a second member central section (25) adapted to lie adjacent said central section of said first member, said second member having engaging means (23) located at a lower portion of said central section, said engaging means being designed to engage said support element of said first member (Figure 1), said second member having a second portion (22) extending upwardly and outwardly to abut a soffit; the arrangement being such that said second member central section is retained between said retaining structure of said first member and said support element of said first member (Figure 1).

Regarding claim 2: The support structure of claim 1 wherein said support element comprises an outwardly directed flange (19), said central section of said second member having a plurality of projections (at 23) extending outwardly towards said first member, the arrangement being such that said projections rest on said outwardly directed flange.

Regarding claim 3: The support structure of claim 1 wherein said first member and said second member are formed from metallic sheet (Col. 1, lines 38-39).

Regarding claim 5: As best understood by the examiner it appears that R.C. Shroter anticipates the implied structure of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over R.C. Shroter (3181275).

Regarding claim 4: R.C. Shroter discloses the support structure of claims 1 and 3 above but does not specifically disclose that the metallic sheet material is selected from the group consisting of aluminum and aluminum alloys. However it is common and well known in the art to have soffit structures made of a metallic sheet to be of aluminum or aluminum alloys. It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support structure of Schroter to be of aluminum or aluminum alloys.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JL

07/23/2006



N. Slack
Supervisory Patent Examiner